

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Derrick A. Jones,)	C/A No. 2:23-cv-06977-SAL-MGB
)	
Petitioner,)	
)	
vs.)	REPORT AND RECOMMENDATION
)	
Warden Sean Jansen,)	
)	
Respondent.)	
)	

Petitioner Derrick A. Jones (“Petitioner”), a former federal prisoner proceeding *pro se*, brings this petition pursuant to 28 U.S.C. § 2241, seeking the application of certain earned time credits. On May 21, 2024, Respondent filed a Motion to Dismiss, or Motion for Summary Judgment. (Dkt. No. 12.) The next day, this Court issued an Order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Petitioner of the dismissal procedure and the possible consequences if he failed to adequately respond to the motion. (Dkt. No. 13.) On June 20, 2024, Respondent filed a Certificate of Re-Service, stating that his dispositive motion was returned to sender “with a new address provided by the Bureau of Prisons.” (Dkt. No. 18.) Respondent re-mailed his motion to Petitioner’s updated address. (*Id.*)

Although Petitioner failed to file a change of address notice, the Court issued an Amended *Roseboro* Order in an abundance of caution. (Dkt. No. 19.) The Court extended Petitioner’s deadline to respond to the Motion to Dismiss, or Motion for Summary Judgment to July 22, 2024. (*Id.*) The Court also reminded Petitioner that he must always keep the Clerk of Court advised in writing of his address changes, so as to ensure that orders or other matters that specify deadlines for Petitioner to meet will be received by him. (*Id.*) The Court mailed the Amended *Roseboro*

Order both to Petitioner's noticed address and the new address provided by Respondent. (Dkt. No. 20.)

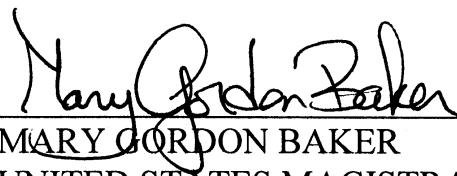
When Petitioner still failed to file a timely response to the Motion to Dismiss, or Motion for Summary Judgment, the Court issued an Order again extending the deadline for Petitioner to respond to the Motion. (Dkt. No. 21.) Petitioner was specifically advised that if he failed to respond, this action could be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (*Id.*) The Court mailed this Order both to Petitioner's noticed address and the new address provided by Respondent. (Dkt. No. 22.) Petitioner has still failed to respond to Respondent's Motion, and none of the orders sent to Petitioner's new address have been returned as undeliverable.

Based on the foregoing, it appears Petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed with prejudice for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

IT IS SO RECOMMENDED.

August 26, 2024

Charleston, South Carolina


MARY GORDON BAKER
UNITED STATES MAGISTRATE JUDGE

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. **Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections.** “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

**Robin L. Blume, Clerk
United States District Court
Post Office Box 835
Charleston, South Carolina 29402**

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).